

IN THE HIGH COURT OF JUDICATURE AT PATNA

CWJC No.1849 of 2002

UMESH KUMAR JAIN, aged about 40 years, son of late Bhajan Lal Jain, resident of Mohalla Jail Road, Ara, P.S. Ara Town, District Bhojpur Ara at present Clerk in Shree Jain Kanya Pathsala High School, Ara ... Petitioner

Versus

1. THE STATE OF BIHAR, through the Secretary, Department of Human Resources Development, Bihar, Patna
2. The Commissioner cum Secretary, Secondary Education, Vikash Bhawan, Patna
3. The Director, Secondary Education, Vikash Bhawan, Patna
4. Chairman, Vidyalaya Sewa Board, Bihar, Patna
5. Secretary, Vidyalaya Sewa Board, Bihar, Patna
6. Mr. Chandrika Prasad, son of late Ram Balak Prasad, resident of village Mirhata, P.O. Bankat District Siwan, Roll No. 141

... Respondents

with

CWJC No.7747 of 2000

1. JANGALI TIWARY, son of Shri Dudheshwar Tiwary, resident of at + P.O. Barisawn, P.s. Shahpur, District Bhojpur, aged about 46 years, at present working as Clerk, Manbharna High School, Bara, Bhojpur
2. Shyamnandan Ojha, son of late Kariman Ojha, resident of village Sahjouli, P.S. Shahpur, District Bhojpur at present working as Clerk of Plus Two High School, Bihia, Bhojpur

... Petitioners

Versus

1. THE STATE OF BIHAR, through the Secretary, Department of Human Resources Development, Bihar, Patna
2. The Secretary, Department of Human Resources Development, Bihar, Patna
3. The Director, Primary Education, Bihar, Patna
4. The Vidyalaya Seva Board, Bihar, Patna, through its Secretary
5. The Secretary, Vidyalaya Seva Board, Bihar, Patna
6. Shri Shatrighan Prasad Singh, son of late Narayan Prasad Singh, village + P.O. Sarmera, P.S. Sarmera, District Nalanda, having Roll No. 229

7. Shri Suman Kumar, son of Shri Kameshwar Lal Das, Resident of village Rajni Babhangama, P.O. Babhangama, P.S. Babhangama, District Madhepura, having Roll No. 448

... Respondents

with

CWJC No.5938 of 2004

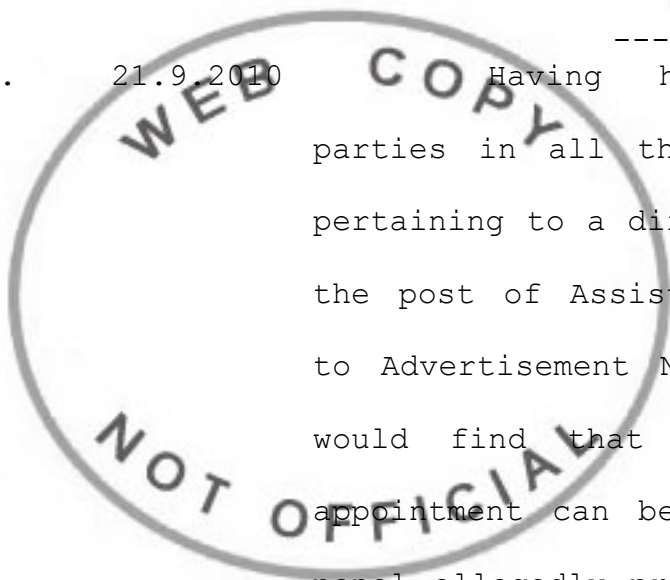
SHATRUGHAN PRASAD SINGH, son of late Narayan Prasad Singh, resident of village and P.S. Sarmera, District Nalanda at present working as Clerk, Rash Bihari High School, Nalanda, Bihar Sharif, District Nalanda ... Petitioner

Versus

1. THE STATE OF BIHAR
2. The Secretary, Department of Human Resources Development, Bihar, Patna
3. The Director, Secondary Education, Bihar, Patna
4. The Vidyalaya Seva Board, Bihar, Patna, through its Secretary
5. The Secretary, Vidyalaya Seva Board, Bihar, Patna

... Respondents

3. 21.9.2010 Having heard counsel for the parties in all these three writ petitions pertaining to a direction for appointment on the post of Assistant Teacher in pursuance to Advertisement No. 1 of 1996 this Court would find that not only no short-fall appointment can be made on the basis of a panel allegedly prepared on the basis of 14 years old advertisement but also because the requisition of the Government to Vidyalaya Sewa Board in the year 1995 was only for 24 candidates and therefore, Advertisement No. 1 of 1996 could not have led to any further



appointment beyond those 24 teachers.

Admittedly the Vidyalaya Sewa Board had made recommendation in the first lot against 24 post and the appointments were also made of such recommended candidates. Thereafter the Vidyalaya Sewa Board without any further requisition in the year 2000 as against the aforementioned Advertisement No. 1 of 1996 had sent a panel of 98 persons which was not acted upon by the Government on the ground that these posts were not sought to be filled up on the basis of Advertisement No. 1 of 1996. No one from the panel sent by the Vidyalaya Sewa Board on 24.7.2000 has been appointed and as such, a direction for appointment of the petitioners also figuring in the said panel dated 24.7.2000 cannot be given both on the ground of empanelled candidates having no indefeasible right and that too being part of a panel which was not against the requisitioned post and/or vacancies initially sought to be filled up by the advertisement in question. The respondents have further explained to this Court that now all the relevant recruitment Rules have



been also amended and no untrained teacher can now be appointed in preference to a trained teacher and such power of appointment in fact no longer rests with the Government, rather with the local self Government authorities including the District Board and/or Panchayat.

In that view of the matter, this Court would find that the relief prayed in these writ applications cannot be granted on account of subsequent development as also the facts noted above.

That being so, all these writ applications have no merit and are, accordingly, dismissed.

(Mihir Kumar Jha, J.)

Surendra/

